

AUTO-OWNERS INSURANCE
COMPANY,

Plaintiff,

v.

BRANDON M. WHATLEY; M.A.P. OF
MACON, INC. d/b/a BUFFALO’S CAFE;
MICHAEL DEWAYNE CHILDS;
RIVALRY’S INC.; CJ’S BAR & GRILL,
INC.; CITY OF MACON; AND MARTIN
KENDRICK,

Defendants.

Currently pending before the Court is Plaintiff's Motion for Summary Judgment (doc. 40). Plaintiff's motion seeks a declaration from the Court that Plaintiff has no duty to defend or indemnify Defendant CJ's Bar & Grill, Inc. ("Defendant") against claims asserted in an underlying lawsuit. The motion, filed on February 27, 2007 and officially submitted to the Court on June 21, 2007, has not been responded to by Defendant. The Court notes that Defendant's attorney of record was called to active duty and was granted a withdrawal from the case. Since then, no other attorney has made an entry of appearance on Defendant's behalf. Nevertheless, it has come to the Court's attention that the plaintiff in the underlying lawsuit plans to voluntarily dismiss its case against Defendant. Assuming this dismissal is effected, Plaintiff's motion will be mooted. As there has been no activity in this case for several months, and the parties anticipate taking action to dispose of the case themselves, the motion currently pending before the court is DISMISSED without

prejudice. Plaintiff is free to re-file its Summary Judgment motion should the need arise.

SO ORDERED, this 30th day of September, 2007.

/s/ *Hugh Lawson*
HUGH LAWSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

HL/cbb